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ATTORNEY DOCKET NO. APPLICATION NO. FILING DATE CONFIRMATION NO. FIRST NAMED INVENTOR 10/604,660 08/07/2003 34168 Donald J. Glaser 1659 **EXAMINER** 23589 7590 10/31/2005 HOVEY WILLIAMS LLP WILSON, LEE D 2405 GRAND BLVD., SUITE 400 KANSAS CITY, MO 64108 **ART UNIT** PAPER NUMBER 3723

**DATE MAILED: 10/31/2005** 

Please find below and/or attached an Office communication concerning this application or proceeding.

| Application No.   Application No.   Application No.   GLASER ET AL.  |  |  |  |         |
|--|--|--|--|---------|
| Examiner  LEE D. WILSON  -The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  -Examined time may be available under the provisions of 37 CPR 1.138(s), in no event, however, may a reply be limely filled after St (3) MONTHS from the midling date of this communication.  -Evaluate is very Month the set or celended period for reply with by stabulate, cause the application to become ABANDONED (85 u.S. 0, 9 133).  -Any reply received by the Office before them strees menine after the mening date of this communication. The provision of the provision o     |  | Application No.  | Applicant(s)   |         |
| LEE D. WILSON 3723  - The MAILING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply.  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  Estamoso of time may be available under the provisions of 27 FR113661, in one west, however, may a raply be timely filed.  If NO seriod for reply is apporting above, the emistrous statutory period will apply and will agains SK (9) MONTHS from the mailing date of this communication. Fallulation in given the subject of the source ARMONDER (50 LS C. § 133). Any raply received by the Disc lists from replication is promoted by the Olice lists from repets after the making date of this communication, even if timely filed, may reduce any seamed planel them disputations. The ST GRT 17/840.  Status  1) Responsive to communication(s) filed on  |  | 10/604,660   | GLASER ET AL.  |         |
| Period for Repty  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  Editation of the may be available under the provides of 57 ER1.135(a), in no term, however, may a reply to timely lited after SIX (6) MONTHS from the maining stee of risk communication.  Estatuse in order may be available under the provides of 37 ER1.135(a), in no term, however, may a reply to timely lited after SIX (6) MONTHS from the maining stee of risk communication.  Failuse in equivalent in the stee of the communication of the communi  | Office Action Summary  | Examiner   | Art Unit   | · · · · |
| A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  - Baterialized of term may be available under the provisions of 37 CFR 1.38(a), in no event, however, may an apply to timely filed.  - Baterialized of term and the provision of 37 CFR 1.38(a), in no event, however, may an apply to timely filed to the provision of 37 CFR 1.38(a), in no event, however, may an apply to timely filed to the provision of the provision of 37 CFR 1.38(a), in no event, however, may an apply to timely filed to the provision of 37 CFR 1.78(b), in no event, however, may an apply to timely filed of this communication.  - Fallurs to reply villed in the set or extended period for reply will, by stable, cause the application to become ABANDONED (SEU S.C. § 133). Any reply provised by the Office for the 2nd between mixed status and patients term adjustment. See 37 CFR 1.78(b).  Status  1) Responsive to communication(s) filed on  |  | LEE D. WILSON  | 3723   |         |
| WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  Estations of time may be available under the provisions of 37 CPR 1.156(a). In or event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  If NO protect in reply is specified above, the resumms disubly prefor out all pagity and still augine SIX (6) MONTHS from the mailing date of this communication.  Any reply received by the Office later than thee months after the mating date of this communication, even if timely filed, may reduce any event of patient than adjustment. See SIX CPR 1.704(b).  This action is FINAL.  2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1-19 and 21-30 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) 1-19 and 21-24 is/are rejected.  7) Claim(s) 1-19 and 21-24 is/are rejected.  7) Claim(s) is/are objected to.  8) The specification is objected to by the Examiner.  Application Papers  9) The specification is objected to by the Examiner.  Application Papers  9) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Application Papers  9) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Notice of Drateparenos Patent Drawing Review (PTO-945)  b) However the author detailed Office action for                         | •  | opears on the cover sheet wit  | th the correspondence address  |         |
| 1) Responsive to communication(s) filed on   | <ul> <li>WHICHEVER IS LONGER, FROM THE MAILING I</li> <li>Extensions of time may be available under the provisions of 37 CFR 1 after SIX (6) MONTHS from the mailing date of this communication.</li> <li>If NO period for reply is specified above, the maximum statutory period</li> <li>Failure to reply within the set or extended period for reply will, by statu Any reply received by the Office later than three months after the mailing</li> </ul> | DATE OF THIS COMMUNIC<br>.136(a). In no event, however, may a red<br>d will apply and will expire SIX (6) MONI<br>te, cause the application to become AB | CATION.  Exply be timely filed  THS from the mailing date of this communication.  ANDONED (35 U.S.C. § 133). |         |
| 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.  3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) ☐ Claim(s) 1-19 and 21-30 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) ☐ Claim(s) 25-30 is/are allowed.  6) ☐ Claim(s) 1-19 and 21-24 is/are rejected.  7) ☐ Claim(s) is/are objected to.  8) ☐ Claim(s) is/are objected to.  8) ☐ Claim(s) are subject to restriction and/or election requirement.  Application Papers  9) ☐ The specification is objected to by the Examiner.  10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTC-152.  Priority under 35 U.S.C. § 119  12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) ☐ All b) ☐ Some * c) ☐ None of:  1. ☐ Certified copies of the priority documents have been received.  2. ☐ Certified copies of the priority documents have been received in Application No  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  10 ☐ Notice of Informal Patent Application (PTO-152)  11 ☐ Internation Disclosure Statement(s) (PTO-1449 or PTO/St00)  12 ☐ Notice of Informal Patent Application (PTO-152)   | Status   |  |  |         |
| 3 ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4 ☐ Claim(s) 1-19 and 21-30 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5 ☐ Claim(s) 25-30 is/are allowed. 6 ☐ Claim(s) 3-19 and 21-24 is/are rejected. 7 ☐ Claim(s) is/are objected to. 8 ☐ Claim(s) is/are objected to. 8 ☐ Claim(s) are subject to restriction and/or election requirement.  Application Papers  9 ☐ The specification is objected to by the Examiner. 10 ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11 ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12 ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) ☐ All b) ☐ Some * c) ☐ None of: 1 ☐ Certified copies of the priority documents have been received. 2 ☐ Certified copies of the priority documents have been received in Application No 3 ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  *See the attached detailed Office action for a list of the certified copies not received.  Attachment(s) 1 ☐ Notice of Patsperson's Patent Drawing Review (PTO-948) of PTO/5808) 5 ☐ Notice of Informal Patent Application (PTO-152)  | 1) Responsive to communication(s) filed on   | •  |  |         |
| closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4)   | 2a)⊠ This action is <b>FINAL</b> . 2b)☐ Th   | is action is non-final.  |  |         |
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| 7) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement.  Application Papers  9) The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in Interview Summary (PTO-413).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  10 Notice of Pratsperson's Patent Drawing Review (PTO-948)  21 Notice of Dratsperson's Patent Drawing Review (PTO-948)  22 Notice of Informal Patent Application (PTO-152)  | 5)⊠ Claim(s) <u>25-30</u> is/are allowed.  |  |  |         |
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| 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1 Certified copies of the priority documents have been received.  2 Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  10 Notice of References Cited (PTO-892)  11 Interview Summary (PTO-413)  12 Paper No(s)/Mail Date  23 Notice of Informal Patent Application (PTO-152)   | 9) The specification is objected to by the Examin  | ner.   |  |         |
| Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No.  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) Notice of References Cited (PTO-892)  2) Notice of Drattsperson's Patent Drawing Review (PTO-948)  3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  5) Notice of Informal Patent Application (PTO-152)   | <u> </u>   |  | by the Examiner.   |         |
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| 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  5) Notice of Informal Patent Application (PTO-152)   |  | , —  |  |         |
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#### **DETAILED ACTION**

### Claim Rejections - 35 USC § 112

- 1. Claims 1-9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.
  - a. The claims are claiming an invention with structure that cannot be supported by the specification or drawings. Please the specific rejections below.
- 1. Claims 1- are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
  - a. The following claims are vague, indefinite, awkwardly, and confunsingly worded:
    - i. The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

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ii. Claim 1 states that shape prevents sliding. How does the shape alone prevent sliding without the mention of some abutment. Applicant is going to have recite the structure and in a manner that connects the parts in a logical order and shows those parts working and moving relative to each other as does the prior art.

- iii. Claim 1 state that "the body in a first plane extending generally parallel to the exposed surface". How can this be when in the picture this part would be perpendicular.
- iv. Claim 1 recites a body including opposing sides extending downwardly. The drawing shows such sides extending upwardly from the element in which these sides are attached.
- v. Claim 1 recites a locking mechanism coupled to the body but what part of the body the parallel parts or perpendicular parts.

# Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 3. Claims 1-9 and 21-24 are rejected as best understood in view of the 112 rejections under 35 U.S.C. 102(b) as being anticipated by Glaser (4744552).

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Glaser discloses an apparatus which functions and has the structure of claims 1-

9. It is not clear how claim 1 structure is being defined so the rejection is applied against claim 1 and the dependents with the best understanding possible.

Claims 20-24 are anticipated and disclosed by Glazer.

4. Claims 10-17 are rejected as best understood in view of the 112 rejections under 35 U.S.C. 102(b) as being anticipated by Deschamps et al (5628418).

Deschamps et al discloses a lockable mounting apparatus having a mount (16) with an internal chamber, a pin (42 eventhough this appears to be a screw it appears to be of the same structure as the applicants pin), a flexible plate (24), and a locking element (32)

#### Claim Rejections - 35 USC § 103

- 5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 6. Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deschamps et al (5628418).
  - b. Deschamps et al (5628418) are discussed above.
  - c. Deschamps et al (5628418discloses the claimed invention except for a trapezoidal shape. It would have been an obvious matter of design choice to

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have used a trapezoidal shape, since such a modification would have involved a mere change in the shape of a component which is with the skill of the worker in the art based on the intended use. A change in shape generally recognized as being within the level of ordinary skill in the art.

## Allowable Subject Matter

7. claims 25-30 are allowed.

## Response to Arguments

- 8. Applicant's arguments filed 8/8/05 have been fully considered but they are not persuasive.
- 9. Applicant has amended the claims.
  - d. The claims have raised new 112 issues. The applicant has to atleast claim something that can be traced to the specification wheather it is function or structure. There is no support for the invention that the amended claims set forth.
- 10. Applicant state the art is not analogus.
  - e. The invention does have structural differences from the prior art but that does not mean a thing if it is not being claimed. The intended use is not even of consequence when the claims do not even define the invention as set forth in the specification.

#### **Conclusion**

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THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time 11. policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEE D WILSON whose telephone number is 571-272-4499. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOSEPH HAIL can be reached on 571-272-4485. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Business Center (EBC) at 866-217-9197 (toll-free).

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic

Ldw

March 4, 2005

LEED. WILSON PRIMARY EXAMINER